

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MOHAMMED T. ANWO,
Plaintiff,
v.
MARVIN D. MORRISON, et al.,
Defendants.

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Civil Action No. 06-269 Erie

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MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on November 17, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 29], filed on November 30, 2007, recommended that Defendants' motion to dismiss or in the alternative for summary judgment [Doc. No. 15] be granted in part and denied in part. Specifically, the Magistrate Judge recommended that the motion should be denied as to the exhaustion argument on the *Bivins* claims; should be granted as to the access to the courts claim; and should be denied as to the FTCA claim. It was further recommended that Defendants Morrison, Lee and Stanley be dismissed from the action pursuant to Plaintiff's request. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. Plaintiff filed objections on January 3, 2008 [Doc. No. 43]. After de novo review of the motion and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 7th day of January 2008;

IT IS HEREBY ORDERED that the Defendant's motion to dismiss for lack of jurisdiction or, in the alternative, motion for summary judgment [Doc. No. 21] is GRANTED in part and DENIED in part. Specifically, IT IS HEREBY ORDERED THAT: the motion is DENIED as to the exhaustion argument on the *Bivins* claims; is

GRANTED as to the access to the courts claim; and is DENIED as to the FTCA claim.
IT IS FURTHER ORDERED that Defendants Morrison, Lee and Stanley are hereby
DISMISSED from the action pursuant to Plaintiff's request. .

The Report and Recommendation [Doc. No. 29] of Magistrate Judge Baxter, filed
on November 30, 2007, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge